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**DEC 29 2004**

**OFFICE OF PETITIONS**

In re Application of	:	
Khalid Raja et al.	:	
Application No. 10/692,363	:	
Filed: October 22, 2003	:	DECISION NOTING JOINDER AND
Attorney Docket No. ACMI-2.006.US	:	DISMISSING SECOND RENEWED
Title: FLUID DELIVERY SYSTEM FOR	:	PETITION UNDER 37 C.F.R. §1.47(A)
USE WITH A SURGICAL PUMPING UNIT	:	AS MOOT
	:	
	:	
	:	

This is in response to the renewed petition under 37 CFR §1.47(b)<sup>1</sup>, filed November 12, 2004.

The above-identified application was filed on October 22, 2003, identifying Khalid Raja, Frank D'Amelio, Dennis Caudle, Roger Raetzman, Kevin Wood, and Marvin Parrett as joint inventors. The application was filed with neither an oath nor a declaration. On January 22, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (first notice), requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63 and a surcharge for its late filing. This Notice set a two-month period for reply.

On May 21, 2004, an improperly executed declaration was submitted, and on June 4, 2004, a "Notice of Incomplete Reply – Nonprovisional" (second notice) was mailed, indicating that the

<sup>1</sup> A grantable petition under 37 CFR §1.47(b) requires:

- (1) The petition fee;
- (2) a surcharge if the petition was not filed at the time of filing of the application;
- (3) a statement of the last known address of each of the non-signing inventors;
- (4) proof that diligent efforts have been made to locate the non-signing inventor
- (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
- (6) proof of irreparable damage, and;
- (7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

submission was not acceptable. The second notice did not extend the period for response set by the previous mailing. In reply to the second notice, applicant filed the original petition, the petition fee, and the surcharge associated with the late filing of an oath or declaration. To make timely this reply, a two-month extension of time was requested. Petitioner submitted a declaration executed by each of the joint inventors save Mr. Wood, a statement of facts, the last known address of the non-signing inventor, and copies of several letters. This petition was dismissed via the mailing of a decision on August 9, 2004, for failure to establish that a complete copy of the application was sent to the non-signing inventor, and for failure to submit an acceptable declaration.

With this renewed petition, an acceptable declaration has been submitted which has been executed by the formerly non-signing sole inventor.

This declaration has been reviewed and found in compliance with 37 C.F.R. §1.63.

In view of the joinder of the joint inventor, further consideration under 37 CFR §1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR §1.47(a).

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at <http://www.uspto.gov/web/forms/sb0122.pdf>.

The application file is being returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (703) 305-0011.



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